

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RONALD L. BASKETT,  
Plaintiff,  
v.  
BRIAN M. AGAR,  
Defendant.

Case No. C05-5743FDB

## ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff sues a Washington State tort claims analyst for denial of his claim and the way he was treated. The Magistrate Judge recommends that this cause of action be dismissed as there is no right to a tort claims process, denial of a claim is prerequisite to filing a state tort action, and there is no constitutional issue. Plaintiff responds with a Motion requesting appointment of a guardian ad litem, stating he is permanently and totally disabled pursuant to the Department of Veterans Affairs. Plaintiff also filed a “rebuttal” to the Magistrate Judge’s Report and Recommendation stating that a law library clerk advised him that “tort would reject his claim, & that he should seek other remedies.” Plaintiff’s submissions fail to address the main reason for the Magistrate Judge’s recommendation – that Plaintiff has presented no constitutional issue. ACCORDINGLY,

The Court, having reviewed Plaintiffs' complaint, the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation;

1 (2) This action is **DISMISSED WITH PREJUDICE** for the reasons outlined in the  
2 Report and Recommendation. This complaint fails to state a claim. This dismissal  
counts as a strike pursuant to 28 U.S.C. § 1915 (g).

3 (3) Plaintiff's Motion for Appointment of Guardian [Dkt. # 11] is DENIED.

4 (3) Clerk is directed to send copies of this Order to counsel for plaintiff, and to the Hon.  
Karen L. Strombom.

5 DATED this 20<sup>th</sup> day of April 2006.

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8 FRANKLIN D. BURGESS  
9 UNITED STATES DISTRICT JUDGE  
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